



YOUTH COMMUNITY CORRECTIONS BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: YCC 100-4	Subject: ON-SITE HEARING
Chapter 100: VIOLATIONS / DETENTION PROTOCOL	Page 1 of 10
Applicable ACA Standards: 2-7120, 2-7123, 2-7159, 2-7203, 2-7207, 2-7214, 2-7216, 2-7217, 2-7219, 2-7220, 2-7221, 3-JCRF-3C-06, 3-JCRF-3C-07, 3-JCRF-3C-09, 3-JCRF-3C-10, 3-JCRF-3C-15	Revision Date: 05-15-03, 09-15-04, 01-09-06, 11-06-06, 11-23-07, 10-10-08, 2-17-10
Signature: /s/ Karen Duncan	Effective Date: 12-31-02
Signature: /s/ Steve Gibson	

I. BUREAU DIRECTIVE:

The Youth Community Corrections (YCC) Bureau will hold On-Site Hearings on Juvenile Parole Youth regarding allegations of serious and/or habitual violations of their Juvenile Parole Agreements. On-Site Hearings shall be held to determine whether or not there is a preponderance of evidence that a youth has committed the alleged violations; whether the alleged violations are of such a nature that a return to the facility or program from which the youth was last released is warranted, or whether a different plan for custody and/or supervision should be pursued. This procedure will be reviewed annually and updated as needed.

II. DEFINITIONS:

Appeal - the opportunity for a youth to appeal the findings of the Hearings Officer to the Department Director or designee following the On-Site Hearing pursuant to [52-5-129, MCA](#).

Detention - the holding or temporary placement of the youth in the youth's home under house arrest or in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody.

Hearings Officer - a Regional Administrative Officer or Juvenile Parole Officer II employed by Department of Corrections and who has not been directly involved in the case of the youth for whom the hearing is held.

Intermediate Sanctions - various consequences for violation of parole agreement, not including return to or placement in a youth correctional facility.

Juvenile Parole Agreement - a document outlining conditions of parole and signed by a youth prior to release from a correctional facility or secure-care facility contracted with the State of Montana.

On-Site Hearing - a formal parole hearing conducted by a Youth Community Corrections Hearings Officer to determine if a preponderance of evidence exists on parole violations to support a revocation to a state youth correctional facility.

Report of Violation - a report written by a juvenile parole officer, pursuant to Procedure [YCC 100-4, On-Site Hearing](#). (Refer to Procedure [YCC 100-6, Report of Violation](#))

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 2 of 10
Subject: ON-SITE HEARING		

III. PROCEDURES:

RESPONSIBILITY:

A. Parole Violation:

1. Alleged violations are investigated to determine if there is sufficient evidence to pursue revocation proceedings. (Refer to [YCC 100-1, Parole Violation Overview](#)). If there are questions, reviews the allegations and case history with his/her immediate supervisor to determine if there is sufficient cause to present the case to the Hearings Officer. Juvenile Parole Officer (JPO)
2. Contacts Hearings Officer to explain/discuss the alleged violations and possible hearing alternatives (i.e. Intervention vs. On-Site Hearing.) JPO
3. If the youth is not in detention, determine if detention is needed pending further action. (Refer to [YCC 100-3, Detention Procedures](#)) JPO
4. If there are sufficient violations warranting action, prepare the [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#) as follows: JPO
 - a. Specifically list the parole condition number (from the Juvenile Parole Agreement) that the youth has violated. An example to follow would be: **#9, Laws and Conduct: On January 1, 2001, you were arrested by the Great Falls Police Department for Felony Theft of a motor vehicle belonging to John Smith.**
 - b. Specifically list the circumstances surrounding the offense such as: victim's name, place of offense, arresting agency and specific action that is defined as a parole violation.
 - c. List all physical/circumstantial evidence and witnesses. List all evidence that

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 3 of 10
Subject: ON-SITE HEARING		

could be introduced at the On-Site Hearing.

5. Serve [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#) to the youth as soon as possible, preferably within 24 hours of detainment and at least 72 hours prior to the hearing. The youth must initial each On-Site Hearing legal right listed on the form. The JPO will help the youth understand all of these rights as listed. This must be done in an impartial way, and the JPO **will not** include any commitments (future placements or length of stay) to the youth or the attorney in exchange for the youth waiving his/her right to a hearing. The youth and JPO sign the bottom part of the form and the youth and parent(s), guardian(s), custodian(s) or their representative(s) are given a copy. JPO
6. The JPO will assist the youth in securing and paying for an attorney to represent the youth if the family or youth cannot afford one. JPO, Youth's parent(s), guardian(s), custodian(s) or their representative(s)
7. Provide the attorney with the [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#), law enforcement reports and other reports. JPO

B. Waiver:

- If the youth indicates that he/she intends on signing a waiver form in lieu of an On-Site Hearing, the following procedures must be followed: JPO
1. **The youth must be informed that she/he must write the reasons why she/he wants to waive the On-Site Hearing process using the [Youth Reasons for Waiving an On-Site Hearing YCC 100-4 \(C\)](#). The Youth Transition Centers (YTC) Director or designee must review the waiver for YTC residents.** (YTC) Director
 2. The youth and attorney will provide the JPO and the parent(s), guardian(s), custodian(s) or their representative(s) the signed [Waiver of Right To](#) JPO, Youth, Attorney

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 4 of 10
Subject: ON-SITE HEARING		

[A Hearing YCC 100-4 \(B\)](#) and [Youth's Reasons for Waiving an On-Site Hearing YCC 100-4 \(C\)](#).

The JPO will sign the forms and submit them and the supporting evidence to the Hearings Officer for review.

3. The Hearings Officer may not base a decision to revoke a youth's parole based solely on the youth's waiver, but must review the facts of the case and make written findings that support the decision. These findings must be done on the [Summary of Waiver \[YCC 100-4 \(D\)\]](#). The specific offenses acknowledged by the youth and his/her attorney are specifically listed separately on this form, including an explanation if there are any changes from the original [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#). Should the youth deny any of the allegations or admit only to violating aftercare or parole conditions, JPO or Hearings Officer should require a hearing. The Hearings Officer is empowered to make the revocation decision. Hearings Officer,
JPO
4. If the decision is to return a youth to the youth correctional facility from which he/she was previously released, the [Order of Revocation YCC 100-4 \(I\)](#) is completed. If the youth admits to all violations, this form is used by the facility to determine the length of stay at the facility. If the youth admits to only part of the alleged violations and a hearing is not held the facility will use the [Youth's Reasons for Waiving an On-Site Hearing YCC 100-4 \(C\)](#) to determine length of stay at the facility. A copy of the [Order of Revocation YCC 100-4 \(I\)](#) is placed in the youth's field file. If the decision is to amend the youth's parole agreement, use [YCC 100-4 \(K\), Amended Parole Conditions](#). Hearings Officer
5. When the JPO receives notice that the Hearings Officer approves the revocation of the youth, the youth correctional facility is contacted to ensure space availability and to coordinate an arrival JPO

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 5 of 10
Subject: ON-SITE HEARING		

time. Transportation plans have been made or are made at this time. The [Order of Revocation \[YCC 100-4 \(I\)\]](#), [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#), and the [Waiver of the Right to a Hearing \[YCC 100-4 \(B\)\]](#) forms are faxed to the facility prior to the youth's arrival.

6. The [Report of Violation YCC 100-6 \(A\)](#); along with all relevant law enforcement and other reports and documents are sent to the youth correctional facility within 24 hours (excluding weekends and holidays) of the youth's return to the facility. JPO
7. Within three working days, [Summary of Waiver YCC 100-4 \(D\)](#) is completed including specific listing of violations by code violated that are admitted, and distributed to the youth correctional facility, the YCC Bureau Chief and to the JPO, the youth, the youth's parent(s), guardian(s), custodian(s) or their representative(s) and the youth's attorney. The Summary of Waiver [YCC 100-4 (D)] shall contain the Hearings Officer's findings, conclusions, and disposition recommendation(s) and attached documents relative to the charges. Hearings Officer

The Hearings Officer will send a [Summary of Waiver/ Hearing Receipt Letter \[YCC 100-4 \(L\)\]](#) to the youth's case manager at the correctional facility. The Case Manager delivers the Summary of Waiver [YCC 100-4 (D)] to the youth; the youth signs the receipt letter and case manager returns the original to the Hearings Officer.

Hearings Officer, Case
Manager, Youth

8. If placement is changing, notify parent(s), guardian(s), custodian(s), or their representative(s) [refer to [60-1 \(H\)](#), [Sample Letter of Written Notice to Parent\(s\), Guardian\(s\), Custodian\(s\), or their Representative\(s\)](#)]. JPO

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 6 of 10
Subject: ON-SITE HEARING		

C. On-Site Hearing:

- The On-Site Hearing shall be scheduled to take place within ten working days of the detention date or date the youth was served with the [Notice of Alleged Violation of Parole Agreement \[YCC 100-4 \(A\)\]](#), whichever is earlier. The ten-day limit may be waived by agreement of the youth, his/her attorney, and the Hearings Officer. The hearing may be postponed or continued for a reasonable period of time. Hearing postponement or continuance may be granted for such cause as preparation for a defense, illness or unavailability of youth, further investigation of factual matters relevant to the hearing, or youth court prosecution.

The hearing for a YTC resident must be scheduled as soon as possible, no later than seven days, excluding weekends and holidays, after the alleged violation. Youth must be notified of the time and place of the hearing at least 24 hours in advance of hearing.

JPO, Hearings Officer
- The On-Site Hearing shall occur at or near the site of the alleged violation or in the county in which the youth is residing or is found.

Hearings Officer
- A hearing date, time, and place are established via consultation with the Hearings Officer and the youth's attorney. The [Hearing Notice YCC 100-4 \(E\)](#) is completed and a copy is given to the youth, with copies of this going to the youth's attorney, parent(s), guardian(s), custodian(s) or their representative(s) and the Hearings Officer.

JPOHearings Officer
- The [Subpoena YCC 100-4 \(F\)](#) is served to all witnesses that will be called to present information, both for the state's case, and for the youth and his/her attorney.

JPO

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 7 of 10
Subject: ON-SITE HEARING		

5. Prior to an On-Site hearing a [Report of Violation YCC 100-6 \(A\)](#) will be submitted to Hearings Officer with a copy to youth, attorney, and parent(s), guardian(s), custodian(s) or their representative(s). JPO

D. On-Site Hearing Proceedings:

1. Evidence of suspected violations, including physical evidence is presented. On-Site Hearing proceedings will be recorded on tape or digitally. JPO
2. Witnesses are presented to support alleged violation. Written reports and documentation may be used in place of live testimony. (If witnesses do not honor subpoena, Hearings Officer may continue hearing without them.) JPO
3. The hearing is a public proceeding. However, upon a finding that an individual's right of privacy outweighs the public's right to know, the Hearings Officer may exclude members of the public from all portions of the hearing pertaining to privacy interests. Witnesses may attend only during their testimony. Hearings Officer
4. Documentation is presented (Court Order, UA/BA test results, Parole Agreement, Police Reports). JPO
5. Determine if there is a preponderance of evidence the youth has committed a serious and/or habitual violation of conditions of parole. Assure due process has been afforded to youth. Hearings Officer
6. Dispositional recommendations are received from all involved persons. If appropriate, Intermediate Sanctions may be recommended as an alternative to returning the youth to a youth correctional facility. Hearings Officer

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 8 of 10
Subject: ON-SITE HEARING		

- | | | |
|----|--|-------------------------|
| 7. | The hearing decision is based solely on information obtained in the hearing process, including staff reports, statements of the youth charged, and evidence derived from witnesses and documents. | Hearings Officer |
| 8. | At the conclusion of the hearing, the Hearings Officer will make a verbal statement of findings and decision but may choose not to inform the youth at the hearing location if there is concern over aggressive action. The Hearings Officer will notify the youth and the youth's attorney of findings within 24 hours of the conclusion of the hearing. The Hearings Officer will inform the youth and legal counsel that the youth's parole eligibility date will be determined by the Length of Stay Committee at the facility after the youth returns to the facility. If the decision is to amend the youth's parole agreement, use YCC 100-4 (K), Amended Parole Conditions. The youth will be placed in accordance with the Hearings Officer's decision. The youth, attorney, and parent(s), guardian(s), custodian(s) or their representative(s) will be notified they have five working days to appeal the decision to the Director of Corrections. If there is an appeal, the youth will be returned to the facility and await the decision of the Director. | Hearings Officer |
| 9. | When the youth is being returned to a Youth Correctional Facility, complete and sign the Order of Revocation [YCC 100-4 (I)] . Fax the Order of Revocation [YCC 100-4 (I)] the Report of Violation [YCC 100-6 (A)] and the Notice of Alleged Violation of Parole Agreement [YCC 100-4 (A)] to the facility prior to the youth's arrival. All relevant law enforcement and other reports and documents are sent to the Youth Correctional Facility within 48 hours of the youth's return to the facility, (excluding weekends and holidays). | Hearings Officer
JPO |

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 9 of 10
Subject: ON-SITE HEARING		

Within three working days, a [Summary of On-Site Hearing \[YCC 100-4 \(H\)\]](#) is completed and distributed to the Superintendent of the Correctional Facility, the Youth Community Corrections Bureau Chief, the JPO, the youth, the youth's parent(s), guardian(s), custodian(s) or their representative(s) and the youth's attorney. The [Summary of On-Site Hearing \[YCC 100-4 \(H\)\]](#) report shall contain the Hearings Officer's findings including specific listing of violations by code violated that are found true by a preponderance of evidence, conclusions, and disposition recommendation(s), and attached documents relative to the charges.

Hearings Officer

YTC Staff

For YTC youth, a copy of the Summary of On-Site Hearing will be put into the youth's YTC file.

The Hearings Officer will send a [Summary of Waiver / Hearing Receipt Letter \[YCC 100-4 \(L\)\]](#) to the youth's case manager at the correctional facility. The Case Manager delivers the Summary of Waiver to the youth; the youth signs the receipt letter and case manager returns the original to the Hearings Officer.

Hearings Officer, Case
Manager, Youth

10. If placement is changing, notify parent(s), guardian(s), custodian(s) or their representative(s) using [60-1 \(H\), Sample Letter of Written Notice to Parent\(s\), Guardian\(s\), Custodian\(s\), or their Representative\(s\).](#)

JPO

E. Appeals Process:

1. An appeal of the Hearings Officer's decision may be made to the Department Director, in writing, within five days of the Hearing - [YCC 100-4 \(J\), Notice of Appeal.](#)

Youth/Attorney

2. Response to the appeal is written within five

Department Director

Procedure No.: YCC 100-4	Chapter 100: VIOLATIONS/ DETENTION PROTOCOL	Page 10 of 10
Subject: ON-SITE HEARING		

days. Provide to: youth, youth's attorney, Hearings Officer, parent(s), guardian(s), custodian(s) or their representative(s) and correctional facility.

3. If the Department Director denies the appeal, the youth may appeal to the District Court pursuant to [52-5-129 \(7\), MCA](#) within ten days. Youth/Attorney
4. If the decision is to return the youth to a youth correctional facility and the youth appeals, s/he shall await the outcome of the appeal at the correctional facility.

IV. CLOSING:

Questions concerning this procedure shall be addressed to the Youth Community Corrections Bureau Chief.

V. REFERENCES:

41-5-1523, MCA	Commitment to Department Supervision
52-5-127, MCA	Control Over Youth Released Under Parole Agreement
52-5-128, MCA	Detention of Youth Who Violates Parole Agreement
52-5-129, MCA	Hearing on Alleged Violation of Parole Agreement - Right to Appeal Outcome
ARM 20.9.302	Parole Agreement Violation, Initial Investigation and Detainer
YCC 4.7.4	Violation of Juvenile Parole Agreement

VI. ATTACHMENTS:

[YCC 100-4 \(A\) Notice of Alleged Violation of Parole Agreement](#)
[YCC 100-4 \(B\) Waiver of Right to a Hearing](#)
[YCC 100-4 \(C\) Youth Reasons for Waiving On-Site Hearing](#)
[YCC 100-4 \(D\) Summary of Waiver](#)
[YCC 100-4 \(E\) Hearing Notice](#)
[YCC 100-4 \(F\) Subpoena](#)
[YCC 100-4 \(G\) Youth On-Site Hearing Guide](#)
[YCC 100-4 \(H\) Summary of On-Site Hearing](#)
[YCC 100-4 \(I\) Order of Revocation](#)
[YCC 100-4 \(J\) Notice of Appeal](#)
[YCC 100-4 \(K\) Amended Parole Conditions](#)
[YCC 100-4 \(L\) Summary of Waiver / Hearing Receipt Letter](#)